

REMARKS

By this amendment, all pending claims have been cancelled in favor of newly added claims 202, 203, and 204.

With respect to the cancelled claims, Applicants have not dedicated or abandoned any unclaimed subject matter, and moreover have not acquiesced to any rejections and/or objections made by the Patent and Trademark Office. Applicants reserve the right to pursue prosecution of any presently excluded claim embodiments in future continuation and/or divisional application(s).

Applicants present this Amendment in conjunction with a request by Applicants for interference in accordance with 37 C.F.R. § 1.607. Applicants respectfully request that an interference be declared between the above-identified application and U.S. Patent Nos. 6,207,646 and 6,194,388. The information required by 37 C.F.R. § 1.607(a) is set forth below under headings which correspond to the subsection of § 1.607(a) to facilitate consideration by the Examiner. Applicants have also included completed PTO Forms 850 for the requested interference to facilitate discussion with an Interference Specialist and an Administrative Patent Judge at the appropriate time. The completed Forms are attached as Appendix K.

I. Examiner Interview

Applicants thank Examiners Q. Nguyen and D. Nguyen for extending the courtesy of an interview with Applicants' representatives and the licensee's representatives on October 2, 2001, during which this request for an interference was discussed. Applicants appreciate the Examiners' attention and suggestions, which are addressed herein.

II. Compliance with 37 C.F.R. § 1.607(a)(1): Identification of the patents which claim subject matter which interferes with a claim in the application

Applicants request that an interference be declared between Applicants' application ("the application") and U.S. Patent No. 6,207,646, which issued March 27, 2001, to Arthur M. Krieg

et al. (the "Krieg '646 patent") and U.S. Patent No. 6,194,388, which issued February 27, 2001, to Arthur M. Krieg et al. (the "Krieg '388 patent").

The Krieg '646 patent issued from U.S. Serial No. 08/738,652, filed October 30, 1996, and states on its face that the '652 application is a "[c]ontinuation of application No. 08/386,063, filed on Feb. 7, 1995, which is a continuation-in-part of application No. 08/276,358, filed on Jul. 15, 1994, now abandoned." The Krieg '388 patent issued from U.S. Serial No. 08/386,063, filed February 7, 1995, and states on its face that the '063 application is a "[c]ontinuation-in-part of application No. 08/276,358, filed on Jul. 15, 1994, now abandoned."¹ For the Examiner's convenience, copies of the Krieg '646 patent and the Krieg '388 patent are attached.

A. New claims 202 and 203 and corresponding claim 7 in the Krieg '646 patent are directed to the same invention

The following chart provides a side-by-side comparison of claim 7 of the Krieg '646 patent (written in independent form) and new claim 202.

¹ As discussed in Section IX, the statement on the face of the Krieg '646 patent that the '652 application is a continuation of the '063 application (filed February 7, 1995), is incorrect. There is new matter in the '652 application, and thus it should have been referred to as a continuation-in-part of the '063 application.